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3 UNITED STATES DISTRICT COURT

4 DISTRICT OF NEVADA

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6 DALE KOKOSKI,

Case No. 3:23-cv-00011-MMD-CLB

7 Plaintiff,

ORDER

8 v.

9 DR. BERNALES,

10 Defendant.

11 *Pro se* Plaintiff Dale Kokoski, an inmate in the custody of the Nevada Department
12 of Corrections ("NDOC"), sued Dr. Bernales for constitutionally inadequate medical care
13 while incarcerated at Ely State Prison ("ESP"). (ECF No. 7 ("Complaint").) Before the
14 Court is the Report and Recommendation ("R&R") of United States Magistrate Carla L.
15 Baldwin (ECF No. 30), recommending that the Court deny Kokoski's motion for leave to
16 file an amended complaint (ECF No. 21 ("Motion")) and instead that this case proceed on
17 Kokoski's single Eighth Amendment claim against Defendant Dr. Bernales (ECF No. 30
18 at 5). To date, no objections to the R&R have been filed. Indeed, Kokoski appears to
19 agree with the R&R because he filed a motion requesting issuance of summons for Dr.
20 Bernales only (ECF No. 31), which Judge Baldwin has already granted (ECF Nos. 32,
21 33). Because there is no objection, and as further explained below, the Court will adopt
22 the R&R.

23 Because there was no objection, the Court need not conduct *de novo* review, and
24 is satisfied that Judge Baldwin did not clearly err. *See United States v. Reyna-Tapia*, 328
25 F.3d 1114, 1116 (9th Cir. 2003) ("De novo review of the magistrate judges' findings and
26 recommendations is required if, but *only* if, one or both parties file objections to the
27 findings and recommendations.") (emphasis in original). In the R&R, Judge Baldwin
28 recommends the Court deny the Motion because Kokoski seeks to raise additional claims

1 and add additional defendants barred by the doctrine of sovereign immunity. (ECF No.
2 30 at 4-6.) Judge Baldwin did not clearly err in the R&R. Indeed, and as mentioned above,
3 Kokoski is currently attempting service on Dr. Bernales. (ECF Nos. 31, 32, 33.) Thus,
4 Kokoski appears to be attempting to comply with Judge Baldwin's recommendations in
5 the R&R even before the Court reviewed the R&R.

6 It is therefore ordered that Judge Baldwin's Report and Recommendation (ECF
7 No. 30) is accepted and adopted in full.

8 It is further ordered that Plaintiff Dale Kokoski's motion for leave to file an amended
9 complaint (ECF No. 21) is denied.

10 It is further ordered that this case will continue to proceed on the single Eighth
11 Amendment deliberate indifference to serious medical needs claim in the operative
12 complaint (ECF No. 7) as construed in the operative screening order (ECF No. 6) against
13 Defendant Dr. Bernales, only.

14 DATED THIS 7th Day of December 2023.

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MIRANDA M. DU
18 CHIEF UNITED STATES DISTRICT JUDGE
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